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Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

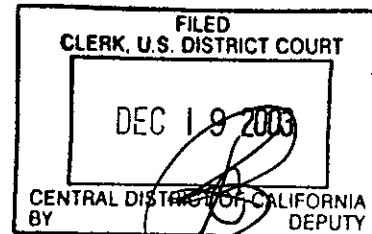
IMPERIAL TOY CORPORATION,
a corporation,

Defendant.

No. CV 03-3448 PA (PLAx)

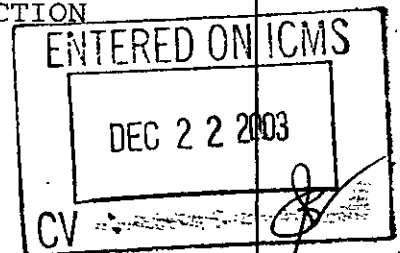
CONSENT DECREE OF
PERMANENT INJUNCTION

Plaintiff, the United States of America, by its undersigned
attorneys, having filed a Complaint for Civil Penalties and for
an Injunction against defendant Imperial Toy Corporation
("Imperial" or "Defendant"), that seeks, among other things, to
have defendant enjoined from knowingly introducing or causing the
introduction into interstate commerce of children's toys that are



Send
JS-6
The terms and conditions as outlined in this
Consent Judgement are entered on the docket
of this Court on 12-22-03

✓ Docketed
✓ Copies / NTC Sent
✓ JS-5 / JS-6
✓ JS-2 / JS-3
✓ CLSD



1 banned hazardous substances under the Federal Hazardous
2 Substances Act ("FHSA"), 15 U.S.C. § 1261(q)(1)(A), 16 C.F.R.
3 § 1500.18(a)(9), and 16 C.F.R. Part 1501, in violation of
4 15 U.S.C. § 1263(a), and defendant having appeared and having
5 consented to entry of this Consent Decree of Permanent Injunction
6 (the "Decree") without contest and before any testimony has been
7 taken, and the United States of America having consented to the
8 Decree, and having moved this Court for injunction;

9 The parties having agreed to settlement of all allegations
10 contained in the Complaint up to the date of the parties signing
11 this Decree, upon the following terms and conditions, without
12 adjudication of any issue of fact or law and with defendant
13 expressly denying the validity of any of the government's
14 allegations; and,

15 The government believing settlement of this case on the
16 terms described below is in the public interest given that this
17 is the first and only action brought by the government against
18 Imperial and that there have been no reported injuries or
19 consumer complaints from the use of Imperial's toys at issue in
20 this case, and Imperial believing settlement of this case is
21 appropriate to avoid the time and expense of litigation so that
22 it can devote its efforts to servicing the needs of its
23 customers;

24 THEREFORE, on the agreement of the parties and for good
25 cause shown, it is hereby ORDERED, ADJUDGED, and DECREED as
26 follows:
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1 1. This Court has jurisdiction of this matter and of the
2 parties, and the Complaint states a cause of action under the
3 FHSA.

4 2. Defendant shall pay TWO HUNDRED THOUSAND DOLLARS
5 (\$200,000.00) to the United States as a civil penalty, pursuant
6 to 15 U.S.C. § 1264(c). The civil penalty shall be paid in four
7 installments: \$25,000.00 shall be paid within ten (10) business
8 days after the Court's entry of this Decree; \$25,000.00 shall be
9 paid on or before the one year anniversary of the entry of this
10 Decree; \$25,000.00 shall be paid on or before the two year
11 anniversary of the entry of this Decree; and \$125,000.00 shall be
12 paid on or before the three year anniversary of the entry of this
13 Decree. Payments shall be made by certified or cashier's check,
14 made payable to the Treasurer of the United States, and delivered
15 to the attention of: Director, Office of Consumer Litigation,
16 Civil Division, Department of Justice, Washington, D.C. 20530.

17 3. In the event of default on any of the payments required
18 in Paragraph 2, which default continues for ten (10) calendar
19 days beyond the due date of the payment, defendant shall pay
20 plaintiff interest on the amount owing at a rate computed
21 pursuant to 28 U.S.C. § 1961(a), except that defendant shall not
22 be required to pay interest on any interest due.

23 4. Defendant and each and all of its directors, officers,
24 agents, servants, representatives, in-house attorneys, successors
25 or assigns, and any and all persons in active concert or
26 participation with it, are permanently enjoined from directly or
27 indirectly introducing, or causing the introduction into
28

1 interstate commerce of any toy or other article intended for use
2 by children that fails to comply with the FHSA or any regulation
3 issued under the FHSA.

4 5. Defendant shall have an independent laboratory conduct
5 an age grading analysis on each model of toy that it distributes
6 in the United States. This age grading analysis shall include
7 the factors listed at 16 C.F.R. § 1501.2(b) and the CPSC's "Age
8 Determination Guidelines: Relating Children's Ages to Toy
9 Characteristics and Play Behavior" dated September 2002 and any
10 updates, located on CPSC's Website, and be completed before
11 defendant attempts to import, sell, or deliver for sale, any toy
12 into the United States. If the age grading analysis determines
13 that a model of toy is intended for children under three years of
14 age, defendant shall have the independent laboratory test the toy
15 in accordance with the requirements of 16 C.F.R. §§ 1500.51 and
16 1500.52 and 16 C.F.R. Part 1501 before any attempted importation,
17 sale or delivery for sale of the toy into the United States.

18 6. Defendant shall submit the name and credentials of its
19 independent laboratory (required by paragraph 5 of this Decree)
20 to the CPSC compliance staff via overnight delivery and
21 facsimile. Defendant shall do so prior to defendant using any
22 subject laboratory. If the CPSC staff objects to the independent
23 laboratory selected by defendant, the staff must so notify
24 defendant within thirty (30) calendar days of defendant
25 submitting the laboratory's name and credentials, at which point
26 defendant shall select another independent laboratory, the name
27 and credentials of which shall be submitted to the CPSC
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compliance staff. If the CPSC staff does not respond to defendant's submission of a laboratory's name and credentials within 30 days, defendant may use that laboratory to do the analysis and testing required by paragraph 5 of this Decree.

7. Defendant may move the Court subsequent to the five-year anniversary of the entry of this Decree for an order, upon good cause shown by defendant, that defendant is no longer bound by paragraph 6 of this Decree.

8. Defendant shall maintain, in their United States offices, records of the analyses and testing conducted pursuant to Paragraph 5 of this Decree. Such records shall include, but not be limited to, the date of the analysis and testing, the procedures used, and the results of the analysis and testing.

9. Defendant shall notify the CPSC staff in writing at least ten (10) calendar days prior to any reorganization, dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of any subsidiaries, or any other changes in its corporate structure that may affect compliance obligations arising out of this Decree.

10. Provided that defendant makes the payments due under paragraph 2 and 3 hereof, and is not in default of any other obligation under this Consent Decree, the Justice Department's Office of Consumer Litigation and the CPSC agree not to file further civil actions, or initiate administrative proceedings, under the FHSA or other statutes administered by the CPSC against

1 defendant or any individual, employee, representative or agent of,
2 defendant for conduct relating to defendant's importation and/or
3 distribution of toys during the period from January 1, 1990,
4 to the date that the parties sign this Decree, or for any other
5 alleged violation by defendant of the FHSA or other statutes
6 administered by the CPSC based upon information known to the CPSC
7 during the period January 1, 1990, to the date that the parties
8 sign this Decree. Nothing in this paragraph 10 shall effect;
9 revive, or extend any applicable statute of limitations with
10 respect to any alleged violations by defendant of the FHSA or
11 other statutes administered by the CPSC.
12

13 11. All parties shall bear their own fees and costs
14 incurred in this litigation through the date of entry of this
15 Decree.

16 12. This Court retains jurisdiction of this matter for the
17 purpose of enabling any of the parties to this Decree to apply to
18 the Court at any time for such further orders or directives as
19 may be necessary or appropriate for the enforcement of compliance
20 therewith, or for the punishment of violations thereof.
21

22 SO ORDERED this 18th day of December, 2003.

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25 PERCY ANDERSON
26 United States District Judge
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1 We hereby consent to the entry of the foregoing Decree.

2
3 Dated: December 17, 2003

4 Dated: December 17, 2003

5 FOR THE DEFENDANT

FOR THE PLAINTIFF

6
7 Harvey Friedman
8 HARVEY FRIEDMAN
9 Attorney for Imperial
Toy Corporation

DEBRA W. YANG
United States Attorney

10 Amy E. Goldfrank
11 AMY E. GOLDFRANK
12 Trial Attorney
13 Office of Consumer Litigation
14 U.S. Department of Justice
15 Washington, D.C. 20044
16 Tel: (202) 307-0065

17 OF COUNSEL:

18 W.H. DuROSS III
19 General Counsel
20 PATRICIA KENNEDY
21 SETH POPKIN
22 Attorneys
23 Consumer Product Safety Commission
24
25
26
27
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PROOF OF SERVICE

1013A (3) CCP Revised 5/1/88

SCANNED

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California.

I am over the age of 18 and not a party to the within action; my business address is 1900 Avenue of the Stars, Suite 2100, Los Angeles, California 90067-4590.

On December 18, 2003, I served the foregoing document described as **CONSENT DECREE OF PERMANENT INJUNCTION** on the interested parties in this action

X by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Amy E. Goldfrank
U.S. Department of Justice
Office of Consumer Litigation
1331 Pennsylvania Ave. (zip code for this address is 20004)
P. O. Box 386 (zip code for this address is 20044)
Washington, DC 20044

BY MAIL:

-- I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

X As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on December 18, 2003, at Los Angeles, California.

X (Fed) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Stephanie Abelman


Signature